

GIBSON, DUNN & CRUTCHER LLP
JEFFREY T. THOMAS, SBN 106409
JTthomas@gibsondunn.com
4 Park Plaza, Suite 1400
Irvine, California 92614-8557
Telephone: (949) 451-3800
Facsimile: (949) 451-4220

ANGELIQUE KAOUNIS, SBN 209833
AKaounis@gibsondunn.com
333 South Grand Ave.
Los Angeles, California 90071-3197
Telephone: (213) 229-7000
Facsimile: (213) 229-7520

Attorneys for Nonparty
HEWLETT-PACKARD COMPANY

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re IBM Subpoena in the matter of:

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Plaintiff and Counterclaim
Defendant,

v.

PLATFORM SOLUTIONS, INC.,

Defendant and Counterclaimant.

CASE NO. 5:07-mc-80174-JW PVT

Underlying action pending in the United States
District Court for the Southern District of New
York, CASE NO. CV 06-13565 SCR

**NONPARTY HEWLETT-PACKARD
COMPANY'S NOTICE OF WITHDRAWAL
OF MOTION TO MODIFY SUBPOENA
AND FOR A PROTECTIVE ORDER**

Hearing Date: October 23, 2007
Time: 10:00 a.m.
Place: Courtroom 5
Before: The Honorable Patricia V.
Trumbull

NOTICE IS HEREBY GIVEN that pursuant to Local Rule 7.7(e), Nonparty Hewlett-Packard
Company ("HP")'s Motion to Modify Subpoena and for Protective Order, formerly scheduled to be

1 heard on October 23, 2007, by the above-titled Court located at 280 South 1st Street, San Jose, CA
2 95113, is hereby withdrawn pursuant to the agreement set forth in Exhibit A.

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5 DATED: October 5, 2007

JEFFREY T. THOMAS
ANGELIQUE KAOUNIS
GIBSON, DUNN & CRUTCHER LLP

7 By: /s/ Angelique Kaounis

8 Angelique Kaounis

9 Attorneys for Nonparty
10 HEWLETT-PACKARD COMPANY
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EXHIBIT A

LETTER AGREEMENT REGARDING THE WITHDRAWAL OF THE MOTION TO MODIFY SUBPOENA AND FOR A PROTECTIVE ORDER IN *IN RE* IBM SUBPOENA IN THE MATTER OF *IBM V. PSI*, No. 5:07-mc-80174-JW PVT.

WHEREAS, Hewlett-Packard Company ("HP") filed a Motion to Modify Subpoena and for a Protective Order In *In Re* IBM Subpoena In The Matter Of *IBM v. PSI*, No. 5:07-mc-80174-JW-PVT on July 2, 2007;

WHEREAS, International Business Machines Corporation ("IBM") filed an Opposition to the above referenced Motion on October 2, 2007;

WHEREAS, to facilitate the resolution of the dispute between the parties, HP and IBM have agreed upon a Stipulated Letter Agreement to afford HP certain protections in addition to those already afforded by the Protective Order already in place in the underlying matter of *IBM v. PSI*, No. CV 06-13565 CLB (S.D.N.Y.) (the "Stipulated Letter Agreement"), and HP has agreed to produce certain materials to IBM under to the protection of this Stipulated Letter Agreement and the Protective Order;

WHEREAS, HP and IBM are meeting and conferring in good faith to resolve the disputes addressed by the pending pleadings;

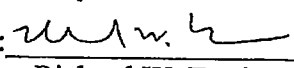
WHEREAS, in the interests of judicial economy, HP has agreed to withdraw its Motion to Modify Subpoena and for a Protective Order;

WHEREAS, other than by what is expressly addressed by the Stipulated Letter Agreement and the Protective Order, neither party has agreed to waive or concede any position that is set forth in their respective pleadings filed in relation to HP's Motion to Modify Subpoena and for a Protective Order;

THEREFORE, BE IT RESOLVED that HP and IBM hereby stipulate that HP will withdraw its Motion to Modify Subpoena and for a Protective Order, and further, that both parties agree that, other than as addressed by the Stipulated Letter Agreement and the Protective Order, both parties reserve all rights to make any and all arguments that were originally set forth in HP's Motion to Modify Subpoena and for a Protective Order or in IBM's Opposition thereto.

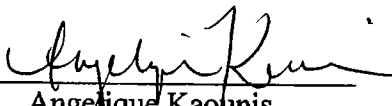
Agreed to as set forth herein and in the attachment hereto.

QUINN EMANUEL URQUHART OLIVER &
HEDGES, LLP

By: 
Richard W. Erwine
Counsel for IBM

DATED: October 5, 2007

GIBSON, DUNN & CRUTCHER LLP

By: 
Angelique Kaounis
Counsel For HP

DATED: October 5, 2007

CERTIFICATE OF SERVICE

MAIL, COMMERCIAL OVERNIGHT MESSENGER, FAX, HAND DELIVERY

I, Ramona Gonzalez, hereby certify as follows:

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 333 South Grand Avenue, Los Angeles, California 90071, in said County and State; I am employed in the office of Angelique Kaounis, a member of the bar of this Court, and at her direction, on October 5, 2007, I served the following:

**NONPARTY HEWLETT-PACKARD COMPANY'S NOTICE OF
WITHDRAWAL OF MOTION TO MODIFY SUBPOENA AND FOR A
PROTECTIVE ORDER**

on the interested parties in this action, by:

Service by Mail: placing true and correct copy(ies) thereof in an envelope addressed to the attorney(s) of record, addressed as follows:

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business.

☒ **Service by Commercial Overnight Messenger:** placing true and correct copy(ies) thereof in an envelope addressed to the attorney(s) of record, addressed as follows:

Richard W. Erwine, Esq.
Katherine Weall, Esq.
Quinn Emanuel Urquhart
Oliver & Hedges, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
(212) 849-7000 (tel.)
(212) 849-7100 (fax)
richarderwine@quinnemanuel.com
KatherineWeall@QuinnEmanuel.com
[Courtesy copy by email]
[Counsel for IBM]

Ryan C. Kirkpatrick
Susman Godfrey LLP
1901 Ave. of the Stars, Suite 950
Los Angeles, CA 90067
(310)-789-3107 (tel.)
(310)-789-3016 (fax)
rkirkpatrick@susmangodfrey.com
[Courtesy copy by email]
[Counsel for PSI]

1 and after sealing said envelope I caused same to be delivered to the aforementioned attorney(s) by
2 qualified commercial overnight messenger.

3 **Service by Fax:** causing a true copy thereof to be sent via facsimile to the attorney(s) of
4 record at the telecopier number(s) so indicated, addressed as follows:

5 **Attorney Name & Address**

Fax and Callback Number

6
7 and that the transmission was reported as completed and without error. A true and correct copy of
8 said transmission report is attached hereto.

9 **Service by Hand Delivery:** delivering true and correct copy(ies) thereof and sufficient
10 envelope(s) addressed to the attorney(s) of record, addressed as follows:

11
12 to a messenger or messengers for personal delivery.

13 I certify under penalty of perjury that the foregoing is true and correct, that the foregoing
14 document(s), and all copies made from same, were printed on recycled paper, and that this Certificate
15 of Service was executed by me on [October 5, 2007](#) at Los Angeles, California.

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17 _____
Ramona Gonzalez

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